

**NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
PROCESS FOR MUNICIPALLY MANAGED
FEDERAL AID SURFACE TRANSPORTATION PROGRAM PROJECTS**

Municipalities have the opportunity to undertake some types of transportation improvement projects funded under the Surface Transportation Program (STP) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and the Transportation Equity Act for the 21st Century (TEA21-1998). The total project costs are typically paid with eighty percent (80%) Federal funds and twenty percent (20%) matching funds provided by the Municipality.

Qualifying projects are mainly comprised of those projects that have been proposed at the community level, recommended to meet local and regional needs, and are enrolled in the State 10-Year Transportation Improvement Program. In an effort to provide more local control in the decision making process during project development, as well as expedite these projects to completion, communities are encouraged to undertake the management of their projects.

The design and construction of Municipally Managed Surface Transportation Program projects must comply with the requirements noted herein in order to receive Federal funding.

The following guidelines are intended to provide a brief overview of the requirements and methodologies for Municipalities managing STP projects. They are intended as a guide only, they do not, and cannot, address every situation that might arise. If a Municipality or Project Sponsor has questions in any area, they are urged to contact the NHDOT's Administrator of the Bureau of Municipal Highways.

PROJECT DEVELOPMENT

Design Phase

Preliminary engineering (design) may be performed with Municipal staff, provided the designer is a licensed professional engineer or architect registered in the applicable branch classification (e.g. structural engineer for bridge design), or the Municipality may hire a consultant using a qualifications based selection procedure per RSA 21-I:22 (see Attachment A for generalized procedure).

In general the Design process will encompass the following steps and procedures:

- A. Sometime after receipt of the notification of selection for project funding (typically 2 to 3 years before the construction funds are programmed), the Municipality and the Department shall jointly conduct a field review of the site to confirm the scope, preliminary estimate of the project cost, and determine whether the design work will be performed by municipal forces or consultants. A project schedule will be established as part of this review.
- B. Following general concurrence relative to the scope of construction, the estimated cost, the proposed prosecution of project development, and the project schedule, the Municipality and the NHDOT will execute a Municipal Agreement for the specific project which defines each party's responsibilities and financial commitments. This agreement shall be executed prior to

proceeding with the project. Once signed, the NHDOT will issue a notice to proceed.

- C. Should the Municipality desire to engage a consultant, the Municipality shall provide documentation of selection process and subsequent fee negotiation (refer to Attachment A).
- D. The design shall be in accordance with "Design/Environmental Analysis Procedures for Municipally Managed Surface Transportation Program Projects" (Attachment B).
Note: On Municipally-owned facilities (and in some cases State-owned facilities) the NHDOT will accept variances to established minimum criteria provided:
 - 1. that the Municipality in making such a request, acknowledges in writing that it recognizes its proposed project does not meet the minimum design standards of the NHDOT; and
 - 2. that the Municipality accepts all responsibilities associated with constructing a facility that is in variance with NHDOT's standard design practices.
- E. The environmental and historical impact of the proposed project shall be studied and documented as outlined in Appendix D, prior to funds being approved for construction.
- F. Final plans and specifications shall be submitted to the NHDOT for review of general conformance. This submission must include copies of all necessary environmental permits, as well as certification of clearance of all necessary property rights, and utility impacts. Upon receipt of NHDOT approval, the Municipality may proceed with advertising the work for bid with a copy of the bid advertisement sent to the NHDOT.

Environmental Phase

Beginning with the initial conception of a project, and continuing throughout the project development process, consideration must be given to the impacts of the project on the environmental and historical resources. Impacts to these resources can have a major impact on the project schedule, as well as the overall project cost. Impacts to environmental and historical resources must be evaluated and documented, impacts quantified and perhaps mitigated, and permits to do the work must be obtained. This work can be done by Municipal Staff or through the use of a consultant. Should impacts become apparent, assessment may require qualified specialists to evaluate resources and impacts, and assist with documentation. In an effort to assist the Municipality, the NHDOT Bureau of Environment is available for consultation. The Municipality can also participate in the NHDOT regularly scheduled meetings with State and Federal Agencies as a forum to get questions answered. Attachment D outlines the environmental review and documentation process, and Attachment E lists the State and Federal requirements that should be considered.

Right-of-Way Phase

Projects of this type typically require obtaining property rights through the eminent domain process, if the municipality determines there is sufficient need for the project. This process is complex and may be labor intensive, and must comply with many structured processes. The costs associated with this process can be substantial. Appendix C describes in more detail the process steps required for right-of-way acquisition.

Once all negotiations are successfully completed, the Municipality must certify that all necessary property rights have been obtained to construct, use, and maintain the project. This certification is required prior to the project proceeding to construction.

Construction Phase

In most cases, the Municipality shall contract out the work by competitive bid process. There may be special cases where the scope of construction is very limited and straight forward, and a reasonable case can be made to allow municipal forces perform the construction. The majority of projects will be contracted out, and the Municipality should be aware of the following:

- A. Potential bidders shall be required to meet established qualification standards in order to be an approved bidder on the project. Many Municipalities have standards that they utilize. Minimum standards of evaluation should include previous work experience, references, adequate staffing, bonding limits, and financial statements. The NHDOT's list of qualified bidders is available for reference if the Municipality has no established pre-qualification process. This list can be obtained by contacting the NHDOT's Bureau of Administration and Contracts.
- B. Upon receipt of bids, the Municipality shall submit a tabulation of those bids to the NHDOT for approval of award to the low bidder. The contract with the successful bidder must include requirements meeting Federal Regulations for EEO and Davis Bacon wage rates, among others.
- C. The Municipality shall provide on-site construction inspection by qualified personnel. In consultation with the Municipality, the NHDOT may direct that this inspection or a portion thereof be conducted under the direction of a licensed professional engineer.
- D. The Contractor shall perform at least 50% of the work on the project. Subcontractors shall be required to meet the same standards of quality and performance as the Contractor.

Reimbursement

Under this process, Federal Funding reimbursement to a Municipality shall be at the rate of 80% of all qualifying costs. These costs may include preliminary engineering, environmental impact analysis, right-of-way acquisitions, construction engineering, and construction. Any expenditures made by the Municipality (or Project Sponsor) prior to notice to proceed from NHDOT cannot be reimbursed. Reimbursement shall be in the following manner:

I. Design/Environmental Analysis Costs

The NHDOT will reimburse the Municipality 80% of design and environmental impact analysis costs incurred that are deemed appropriate and within an acceptable range for the type and magnitude of the project designed. Reimbursement will occur after submittal of the consultant's invoice if consultant designed, or submission of staff related charges if designed by the Municipality.

II. Right Way Costs

The Municipality is responsible for securing any necessary right-of-way as shown in Attachment C and reasonable payments will be reimbursed.

III. Construction Costs

- A. The NHDOT will reimburse the Municipality the Federal 80% share of the amount paid by the Municipality to the contractor for work performed.
- B. The Municipality must withhold a retainage from the Contractor payments. This retainage must be adequate to ensure Contractor compliance with project completion. [The NHDOT withholds retainage in the following manner: beginning when the total of the amount payable reaches 50% of the value of the contract, a specified percentage (For contracts amounting to \$200,000.00 and under, the percentage is 10%. For contracts amounting to over \$200,000.00, the percentage is 5%) is withheld.]

The retainage shall be released by the Municipality upon certification of final completion. The invoices submitted by the Municipality to the NHDOT shall indicate the amount of retainage being withheld. The municipality will be reimbursed 80% of the retainage amount upon receipt of invoice indicating the retainage has been paid to the Contractor (see section on final completion below).

- B. Upon final completion of the work and NHDOT inspection for conformity with the approved plans and specifications, the NHDOT will reimburse the balance of its share of qualifying costs. This reimbursement will be based on written confirmation from the Municipality that the contractor agrees to the total final payment of the contract. Only work included in the approved bid documents as participating elements or extra work orders approved by the NHDOT shall qualify for reimbursement. Monthly partial payments for work completed to date will be allowed by the NHDOT.

IV. Construction Services

Qualifying costs for Construction Services whether provided by Municipal staff or contracted services, including shop drawing, fabrication and falsework review, and laboratory and field testing of materials and

construction inspection shall be reimbursed at the rate of 80% of costs incurred provided they do not exceed the acceptable range of costs for a project of this type, and are in keeping with the services required.

ATTACHMENT A

CONSULTANT SELECTION PROCESS FOR MUNICIPALLY MANAGED SURFACE TRANSPORTATION PROGRAM PROJECTS

Selection of a Consultant to provide engineering, surveying, or architectural services will comply with RSA 21-I:22. All other consultant services shall be obtained by pre-qualified low-bid procedures.

Firms to be considered for selection must demonstrate experience in the discipline required and have a licensed professional engineering or architect staff registered in the State of NH in the branch classification required.

A minimum of three firms shall be selected to provide a brief technical proposal which should address the following issues: firm qualifications, project understanding, project approach, project schedule, and resumes of the project design team to be assigned to the project. This procedure may be supplemented with an interview of the firms being considered. Solicitation of the Request for Proposal (RFP) should include a description of the anticipated scope of work and mention necessary compliance to the NHDOT's "Process for Municipally Managed Surface Transportation Program Projects."

The above selection process may be waived upon approval by the NHDOT if the Municipality has staff qualified to do the design or the Municipality has a firm meeting the noted requirements under contract and selection for those services conformed to the procedure herein.

Upon review of the RFP's and conducting of interviews, if so used, the Municipality shall rate the firms in order of preference. The top rated firm shall be notified of its standing and be requested to submit a fee proposal for services. The Municipality shall provide the top rated firm with a copy of Attachment B, "Design Procedures for Municipality Managed Surface Transportation Program Project", to insure that the Consultant understands the level of design detail and submittal requirements for NHDOT approval.

Should the Municipality be unsuccessful in reaching a satisfactory negotiated fee with the top rated firm, they may terminate without prejudice and commence negotiations with the second rated firm. If no agreement can be reached with the second, move onto the third. Once negotiations are terminated with a firm, negotiations may not be reopened.

A copy of the negotiated contracted fee should be submitted to the NHDOT prior to execution so that the NHDOT may advise the municipality of any provisions or excess costs not qualifying for reimbursement.

The contract must include requirements pertaining to indemnification, insurance limits, and EEO. The Municipality should contact the NHDOT Administrator, Bureau of Municipal Highways, projects for additional guidance. A copy of the executed contract must be maintained by the Municipality with all other project records or future audit purposes. A copy should be forwarded to the NHDOT for information and invoice processing reference.

ATTACHMENT B

**DESIGN/ENVIRONMENTAL ANALYSIS PROCEDURES
FOR MUNICIPALLY MANAGED
SURFACE TRANSPORTATION PROGRAM PROJECTS**

Purpose

These instructions cover administrative procedures applicable to all projects designed by Municipalities or by licensed professional engineers or architects for Municipal Managed projects. All studies and plans shall be submitted by the Municipality to the NHDOT's Administrator of Bureau of Municipal Highways for review and approval.

Engineering Study

The Municipal representative or Consultant shall prepare an evaluation for the project to include the following:

A. Existing Conditions

This section shall contain a description of the existing site and project concept to include width and length; type of facility and amenities (i.e. structures, etc.); and general layout including any significant geometric or topographical conditions.

B. Design Criteria

This section shall contain a listing of the relevant design criteria and manuals to be used, including design speed and traffic data. At a minimum, the design of roadway elements shall conform to the current standards, specifications, policies and guidelines enumerated in the Federal Aid Policy Guide, Subchapter 6, Part 625, or to 23 Code of Federal Regulations, Part 625, and the Department's Highway Design Manual and Bridge Design Manual, except as approved. Further, the contract documents for construction of the project shall require that all items of work shall comply with the material and construction requirements of the current Standard Specification for Road and Bridge Construction of the New Hampshire Department of Transportation, except as approved.

C. Environmental Review and Documentation

Beginning with the initial conception of a project, and continuing throughout the project development process, consideration must be given to the impacts of the project on the environment, including historical and archaeological resources. Impacts to the environment can have a major influence on the project design and construction schedule, as well as the overall cost. Impacts to natural, socio-economic, historical and archaeological resources must be evaluated and documented, impacts quantified and perhaps mitigated, and permits to do the work must be obtained. Municipal staff may do this work, but the assessment of impacts to some environmental resources (e.g., wetlands, historical and archaeological properties, etc.) may require qualified specialists. During the assessment process, the NHDOT Bureau of Environment is available for consultation. Also, the Municipality and/or its consultants can avail itself of the NHDOT

regularly scheduled meetings with State and Federal Agencies as a forum to review potential project impacts and get questions answered.

State and federal environmental laws/regulations prescribe requirements that must be met during the assessment process. The Municipality, as the project sponsor, is expected to be aware of, and meet these requirements. Of particular note is the need to coordinate with the State Historic Preservation Office (SHPO, a.k.a. NH Division of Historical Resources) to determine if historical or archaeological resources may be affected by a project. RSA 227-C:9 is the state governing regulation. Federal involvement on a project, such as funding, permitting, or licensing (through agencies such as the Federal Highway Administration or the Army Corps of Engineers) triggers compliance with Section 106 of the National Historic Preservation Act and its implementing regulation, 36 CFR 800. Under this federal law and regulation, the Municipality is enjoined to contact and confer with the SHPO, the lead federal agency and interested parties if the project will impact a potential National Register eligible historical/archaeological property. Such interested parties usually include the owners of these historic resources within and abutting the project area and local historical and planning agencies, who may formally participate as consulting parties.

To facilitate compliance with RSA 227-C:9 and/or Section 106, the Town/Consultant should, early in the Engineering Study Phase, schedule an initial meeting with the NH Division of Historical Resources (NHDHR) to identify potential historical or archeological concerns. This may result in the need for architectural/historical and/or archeological surveys by qualified consultants. To assist all participants in the process, meetings with the NHDHR should be scheduled through NHDOT's Bureau of Environment Cultural Resources Manager, Joyce McKay (Tel. 271-32226).

Attachment D outlines the environmental review and documentation process, and Attachment E lists the State and Federal laws/regulations that may apply and should be considered.

D. Proposed Layout

This section shall include a description of the methodology and reasoning used to determine the proposed layout. The discussion shall include facility alignment, widths, lengths, and materials; and impacts of the proposed facility, to include environmental and historical resources, utilities, other existing structures, and private property. The discussion should also include identification of construction impacts to traffic and any necessary traffic control plans.

E. Structure Studies and Recommendations (for retaining walls, bridges, etc.)

Structure types studied shall be indicated in narrative and the recommended structure type shown in plan, elevation and typical section along with the requisite reasoning therefore. The typical section shall portray the components of the structure and materials of construction. Borings shall be taken if determined necessary by the Municipal representative or consultant. The number and content of the boring logs shall be sufficient to present a reasonably accurate picture of subsurface conditions. The study shall also address issues of hydraulics and constructability.

F. Cost Estimate

An itemized cost estimate shall be furnished for the proposed facility layout and components.

Preliminary Plans and Environmental Documentation

Preliminary plans, which may later be incorporated into the final plans, shall be submitted to the NHDOT and shall include, but not be limited to:

- a) Location plan (small scale, as 1" per mile)
- b) General plan and profile
- c) Typical and critical cross sections
- d) Cross section of intersecting facilities
- e) Cross section of the bridges and/or structures
- f) Boring location and logs, if required
- g) Survey detail and contours required
- h) Hydrologic and hydraulic data
- i) Documentation of proposed variance from minimum design standards (if applicable).
- j) Appropriate environmental/historical documentation should be prepared and submitted to the NHDOT for acceptance. This documentation will be needed to support the environmental classifications of the project as required by the Federal Highway Administration. The NHDOT will process the classification.
- k) Itemized cost estimate using, to the maximum extent practical, item number, nomenclature, description, materials, and construction requirements which are contained in the Standard Specifications for Road and Bridge Construction, State of NHDOT latest edition. Method of measurement and basis of payment for items used may be modified by Special Provision at the discretion of the designer. special items unique to the project shall require their own Special Provisions.

Finalized Plans and Contract Proposal

Following review of the Preliminary Plans by the NHDOT, finalized plans and contract proposal, including specifications, shall be prepared and submitted to the NHDOT to review for general conformity. This submission shall include an up-dated project item list, a cost estimate, and a description of proposed variances from minimum design standards.

Before finalized plans and contract proposals are submitted, they shall be independently checked in detail by experienced personnel as appropriate, other than the original designer, and, if contracted services, reviewed by the consultant's supervising engineer in responsible charge of the project.

The Municipal engineer's or consultant engineer's licensed professional engineer stamp for the State of New Hampshire shall appear on the plans and contract proposal to be advertised. The stamp shall be that of the professional engineer who prepared the plans and contract proposal or under whose direct supervisory control they were prepared.

Construction Services (if performed by a consultant)

The consultant shall render services to the Municipality including, but not restricted to, the following:

A. Consultation

If and when required during the construction of the project, the consultant shall provide general consulting services and advice and review of all detail construction drawings.

B. Checking Shop Drawings, Interpretation, etc.

- a) Review, check and approve all working drawings prepared by others to include the construction contractors or their subcontractors. This work shall include, but not be limited to, all structural steel, precast concrete, and architectural shop plans; erection plans; and plans for cofferdams, falsework, evaluation of designs of temporary structures, and any other items required to conform to the NHDOT's standard specifications.
- b) Render interpretations, as necessary, of the drawings and specifications and submit recommendations for necessary modifications in either or both to meet unanticipated construction conditions and prepare necessary drawings and specifications to cover same.
- c) Prepare such detailed drawings as may be needed to supplement the contract drawings to permit the proper completion of the project.

C. Field Inspection Services

As-Built Plans:

The Municipality shall submit one (1) set of reproducible as-built plans (sepias are not acceptable) to the NHDOT's Administrator, Bureau of Municipal Highways. The as-built plans will be due following approval of the completed construction work and prior to final reimbursement of the federal share of final construction costs.

ATTACHMENT C

OVERVIEW OF RIGHT-OF-WAY REQUIREMENTS FOR MUNICIPALLY MANAGED SURFACE TRANSPORTATION PROGRAM PROJECTS

I. General

The overall intent of the right-of-way process is for the Municipality to acquire title to all property rights needed to allow construction and future maintenance of the project.

The following information is provided as an overview of the process. The process generally follows these steps: title abstracting, holding the Public Hearing (if required for eminent domain), preparation of right-of-way plans, property valuation, relocation assistance, negotiation, acquisition, and documentation.

Any questions the Municipality may have in any of the areas outlined herein may be directed to NHDOT's Right-of-Way Bureau.

II. Title Abstracting

The purpose of Title Abstracting is to determine the location of the existing right-of-way, property lines, and to determine the current ownership of the property.

This work effort should be performed by a title abstractor with adequate experience. Sufficient work should be done to determine the chain of title, current ownership, and parcel size for each parcel of land affected by the proposed project. This research should include, but may not be limited to, mortgages, liens, attachments, easements, and similar interest in each of the affected properties.

Abstracting plans may be prepared showing the existing detail, existing right-of-way location, existing property lines, and any existing bounds, pins or monumentation that indicates such limits within the extent of the project. Full perimeter surveys of each property are not typically performed. The intent is to indicate the existing limits and rights of ownership within the project limits. When this base plan is included with the detail of the construction plans for the project, the areas of acquisition and other property rights and easements needed from each affected owner can then be determined and described.

III. Public Hearing

If the Municipality is able to successfully negotiate with each affected property owner to obtain title to the needed property rights, then a Public Hearing is not necessary. A Public Hearing in accordance with RSA 231 is necessary if the Municipality is unable to successfully negotiate with the property owner(s) to acquire title to the needed property rights. Following this procedure will enable the Municipality to acquire property rights in accordance with RSA 498-A The Eminent Domain Procedure Act.

If the Municipality determines that a Public Hearing is necessary, the layout, petition, notice, Public Hearing, and similar actions shall be accomplished in accordance with the appropriate provision of RSA 231:1 through and including 231:56. Notice of the Public Hearing shall be sent via certified mail to each individual owner of each property affected by the proposed project, as required in the above-noted statutes.

The consultant or the Municipality shall attend the Public Hearing and present a brief overview of the right-of-way appraisal and acquisition processes. This shall include appropriate information about the number (if any) and type of displacees, the availability of replacement locations, and a general description of relocation assistance benefits. All the information presented should be in compliance with 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs, and State and State-Assisted Programs, as amended.

IV. Right-of-Way Plans

If the impacts to affected properties are relatively minor for the entire project, it may not be necessary to prepare right-of-way plans for the project. If the property rights being acquired can be adequately described through references to previous deed descriptions, the right-of-way plans may not be needed. However, in many instances it is necessary to prepare right-of-ways plans which depict the impacts to each property, including the area, location, and type of impact, and which can be used as a basis for all written descriptions of property rights being acquired.

The plans should clearly show the impacts, both permanent or temporary, to each parcel required for the proposed construction. This should include, but may not be limited to, areas and locations of acquisitions for the right-of-way and associated easements (either permanent or temporary) such as drainage, slope, channel, utility, and construction easements, as well as any restrictions or limitation of access. If additional guidance is necessary, please reference the NHDOT's Highway Design Manual.

V. Property Valuation

The valuation of property rights that will be acquired by the Municipality should be established so as to determine a fair market value of those rights. This information can be obtained from a review and analysis of several sources of real estate data, including: (A) local property sales that are comparable to those properties affected by the project; (B) municipal property tax records and assessments; and; (C) real estate professionals having knowledge of the local area.

Depending upon the extent of the impacts to the property, the valuation and offer of compensation can be determined as follows:

- A. Temporary Construction Impacts (Minimal)** - Temporary easements for non-permanent construction activities which are minor effect to the property, such as driveway realignment or relocation, more significant slope work, and other similar but temporary impacts, may be obtained through a Temporary Construction Easement Deed. This is an easement deed which should be recorded at the county registry and must contain an expiration date as to when the temporary easement is no longer needed, i.e., expires, usually described as being a specific date after acceptance of the completed

construction. The minimum offer of compensation for this type of document is suggested as a nominal one hundred (\$100.00) dollars.

- B. Permanent but Minor Impacts** - Permanent easements and small right-of-way acquisitions, which have minor but permanent impacts to the property, may be obtained through an Easement Deed or a Warranty Deed, as appropriate. This type of document should be recorded at the county registry and should describe the property rights acquired in an understandable manner, referencing the project plans and past deeds as necessary. The minimum offer of compensation for this type of document, which permanently encumbers the property, is suggested as a nominal five hundred (\$500.00) dollars.
- C. Right-of-Way Acquisitions and Easements** - More significant easements (either permanent or temporary) and larger more significant right-of-way acquisitions, are also obtained through an Easement Deed or a Warranty Deed, as appropriate. This type of document should also be recorded at the county registry and should describe the property rights acquired in an understandable manner, referencing the project plans and past deeds as necessary.

Since the impact to the property due to the project are more significant, estimating the value of these property rights is more involved. A value range or pro rata amount may be determined based on pertinent real estate information or assessment data which can then be applied to the area of acquisition of each similarly affected property. From this approach the offer of compensation is calculated and used as a basis for negotiations. This approach can be used for property acquisitions totaling less than ten thousand (\$10,000.00) dollars.

- D. Significant Right-of-Way Acquisitions and Easements** - When a property is impacted to such an extent that there is: (1) a change in the highest and best use of the property; (2) a change in the utility of the property to the owner; or, (3) the calculated offer of compensation is greater than ten thousand (\$10,000.00) dollars, it is necessary to have a complete narrative "before and after" appraisal prepared to determine the value of the property rights being acquired.

It should be noted that when a project has impacts to private properties similar in extent to those described in (C) and (D) above, the Municipality should seriously consider holding a Public Hearing to ensure having the authority to acquire property rights through the eminent domain process.

Real Estate appraisals should be prepared by Appraisers with experience in eminent domain appraisal work. The appraiser should also have adequate experience for the type of property being appraised. For example, appraising the value of a strip of property along the frontage of a residential property in a residential area is not as complex and would not require the same experience as appraising the value of a similar strip of property affecting the parking area of a major commercial development. Consideration should be given to these and similar issues when the appraiser is selected.

When it is necessary to have a complete “before and after” appraisal prepared, the appraiser should follow:

- 1) Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundations
- 2) Uniform Appraisal Standards for Federal Land Acquisition of the U.S. Interagency Land Acquisition Conference of 1992
- 3) Fee Appraisal Report Requirements of the New Hampshire Department of Transportation
- 4) Administrative Rules of the New Hampshire Board of Tax and Land Appeals
- 5) Rules of the New Hampshire Real Estate Appraiser Board
- 6) 49 CFR Part 24 - Uniform Relocation Assisted Programs, and State and State-Assisted Programs, as amended

It is suggested that all appraisals be reviewed independently by an impartial and uninvolved appraiser having approximately similar qualifications and experience in the review of eminent domain appraisals, and should also be performed in compliance with the above-listed requirements. The reviewing appraiser should approve the appraised amount of compensation to be used as the basis for negotiations. This reduces the possibility of errors being made in determining the amount of compensation in the appraisal.

It is important to note that should the Municipality intend to acquire the property through eminent domain action (after a Public Hearing and a finding of necessity), a full narrative “before and after” appraisal is required by the New Hampshire Board of Tax and Land Appeals to file the Declaration of Taking and thereby obtain title to the property rights needed from that owner.

VI. Relocation Assistance

Personal property located within the new right-of-way limits may need to be relocated. Items of personal property that are located within the existing State right-of-way are considered illegal encroachments and are not eligible for reimbursement of their moving expenses. Relocation of these items, especially outdoor advertising devices (signs), should be performed at the owner’s expense. The Municipality should evaluate local policy regarding handling of personal property within the municipality’s right-of-way during the initial planning of the project.

To identify those items of personal property that must be relocated to allow construction and to ensure that the right-of-way is clear, it is suggested that an inventory be prepared which identifies the location, description, and suggested handling (i.e., appraise, relocate, remove, or retain) for each item located within the new right-of-way limits.

This list should include, but might not be limited to, such items as fences, signs, private lighting, landscaping items, etc. Upon approval, a copy of this inventory should be given to the appraiser and/or the negotiator for use in those processes as appropriate.

In general, the cost to relocate items that must be moved outside the new right-of-way is an expense that is paid from project funds. Quotes should be obtained which estimate the cost of moving the affected item(s) to a new location. These quotes should be reviewed

to ensure that they are reasonable and appropriately identify only the work necessary to relocate the item, including installation of any underground service to the item as existed in the pre-move location and condition.

Once the estimate is approved and the work is performed, the owner or the firm performing the move on the owner's behalf, is reimbursed for this work.

Individuals, farms, non-profit organizations, and businesses that are displaced due to the project's impacts shall be provided relocation assistance benefits in accordance with the above-noted laws and regulations. It is suggested that if individuals, farms, non-profit organizations, and businesses are intended to be displaced as a result of the project, the Municipality should discuss the situation with the NHDOT's Chief Relocation Advisor to ascertain the potential costs, both in time and actual funds, of providing relocation assistance benefits in accordance with the pertinent laws and regulations, to all those that are displaced. These benefits can total significant amounts and the Municipality may need to reconsider their proposed layout or improvement to reduce some of these costs.

This assistance shall be provided in accordance with 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs and State and State-Assisted Programs, as amended.

VII. Acquisition of Property Rights

The acquisition of property rights will likely proceed smoothly for projects having strong public support.

Once a negotiated settlement for the needed property rights is reached, appropriate documents are prepared and ownership is conveyed to the Municipality.

If negotiated settlement cannot be reached, the property rights may be acquired through condemnation proceedings in accordance with RSA 498-A - The Eminent Domain Procedure Act. See Section III-Public Hearing, for additional information.

Please refer to Section V. Property Valuation for suggested approaches to acquisition of various property rights. Reasonable efforts should be made to ensure that all settlements are consistent with payments and compensation for other similar acquisitions.

If the value of specific items is not included in the appraisal and if the item cannot be relocated, additional payment may be considered and negotiated to compensate the owner for the loss and/or replacement of those items. This may include trees, shrubs, and other landscaping items in addition to items of personal property such as fences, gardens, etc. Care should be taken to ensure that payment is not inadvertently made twice for the same item(s), e.g., the value of an item being included in the appraisal and then payment made for that same item to be relocated or perhaps even replaced.

Any agreements with property owners that are part of negotiated settlements that require additional work to be performed by the contractor must be included in the information presented in the construction plans.

It is important to note that those involved in negotiating for the needed property rights should have no financial or personal interest in any of the properties from which they acquire property rights.

The negotiation for and acquisition of the necessary property rights shall be in accordance with 49 CRF Part 24 - Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs, and State and State-Assisted Programs, as amended.

VIII. Documentation

The municipality should consider retaining copies of all deeds, releases, negotiation notes, special agreements and final right-of-way plans. This should also include an itemized listing of any and all payments (and receipt of these payments) made for the appraisal, relocation, and acquisition of all properties affected by this project. All deeds and easements should be recorded at the county registry to establish the permanent record of these transactions.

Upon completion of the right-of-way acquisition and relocation or removal of all items of personal property, the Municipality shall submit a written statement to the Right-of-Way Bureau confirming that all needed property rights have been acquired and the right-of-way has been cleared. This must occur in order for the project to advance to construction.

ATTACHMENT D

ENVIRONMENTAL REVIEW AND DOCUMENTATION PROCEDURES FOR MUNICIPALLY MANAGED SURFACE TRANSPORTATION PROGRAM PROJECTS

I. General

The process of reviewing and documenting impacts on environmental and historical resources is a critical piece of project development. The complexity of these steps varies with each project, and depends on the types of environmental and historical resources that exist within the project as well as the impacts to these resources. In many situations, an alternative that minimizes impacts to environmental and historical resources is recommended. When the impacts are minimized, they must be quantified and documented. The process for this review and documentation follows.

II. Consultation

Throughout project development, the Municipality (or its Consultant), shall consult with the NHDOT's Bureau of Environment (BOE), as necessary, regarding the status of environmental analysis and documentation.

III. Agency Coordination

Letters soliciting information/advice/agreement shall be sent to appropriate Local, State, and Federal agencies.

Meetings, as necessary, shall be held with the agencies to address issues/concerns. To the extent practicable, the consultant should avail itself of the NHDOT's regularly scheduled meetings with the Resource Agencies.

IV. Field Reviews

Field reviews shall be conducted, as necessary, to collect data. Resource Agency representatives, as appropriate, should be included.

V. Analysis

Technical analyses shall be conducted, as required, to quantify/qualify environmental impacts. The level and method of analysis should reflect acceptable methodologies and standards.

VI. Documentation

Appropriate environmental documentation shall be prepared. This documentation shall be submitted to the BOE in sufficient time to support environmental classification of the proposed action by the FHWA. Acceptance and approval of the documentation by FHWA is necessary before the project can advance to a public hearing(if required), and advertising for construction.

Dependent on the scope of the project and nature of the issues/concerns, the documentation may require draft and final submissions.

VII. Public Hearing (if required for right-of-way acquisition)

A summary of the environmental impacts and proposed mitigation shall be presented at the public hearing, if a public hearing is being held to acquire necessary property rights by eminent domain.

VIII. Mitigation/Permits

Appropriate mitigation for environmental impacts shall be identified and mitigation strategies/plans, as necessary, shall be developed.

Applications for required permits shall be prepared for processing by the BOE.

ATTACHMENT E

FEDERALLY FUNDED MUNICIPAL PROJECTS **State & Federal Environmental Regulations/Requirements**

STATE

1. NH Dredge & Fill Permit (Wetlands) RSA 482-A
2. Water Quality Certificate (Section 401)
3. Coastal Zone Management Consistency
4. NH Rivers Management & Protection Program
5. NH Lakes Management & Protection Program
6. NH Shoreland Protection Act
7. NH Native Plant Protection Action of 1987
8. NH Endangered Species Conservation Act of 1979
9. Directive for Cooperation in the Protection of Historic Resources RSA 227-C:9
10. Public Waters Access Advisory Board

FEDERAL

1. National Environmental Policy Act
2. Federal Highway Administration (FHWA) Env. Regs. 23 CFR 771, 772
3. FHWA Technical Advisory T6640.8A
4. Section 4(f), DOT Act
5. Uniform Relocation Assistance and Real Property Acquisition Act of 1970
6. Title VI of Civil Rights Act of 1964/Executive Order 12898
7. Surface Transportation and Uniform Relocation Assistance Act of 1987; Section 123(f) (Historic Bridges); Section 130 (Wildflowers)
8. Safe Drinking Water Act
9. Sections 106/110 of the National Historic Preservation Act
10. Wild & Scenic Rivers Act
11. Land and Water Conservation Fund Act (Section 6f)
12. Executive Order 11990 (Protection of Wetlands)
13. Rivers and Harbors Act of 1899
14. Federal Water Pollution Control Act (1972), as amended by Clean Water Act
15. Executive Order, 11988 (Floodplain Management)
16. National Flood Insurance Act
17. Coastal Zone Management Act
18. Farmland Protection Policy Act of 1981
19. Resource Conservation and Recovery Act of 1976 (Haz. Waste)
20. Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Haz. Mats.)
21. Superfund Amendments and Reauthorization Act (Haz. Waste)
22. Endangered Species Act of 1973
23. Fish and Wildlife Coordination Act
24. Clean Air Act

Other regulations/requirements may also apply, during project development (pre-construction), construction or post-construction (maintenance).
